



The original Award was entered in this case by the agreement of the parties in an undated Award filed on March 3, 2000. The claimant was awarded a 37.5 percent permanent partial disability of the left lower extremity. Future medical benefits were awarded upon proper application and approval of the Director.

On October 24, 2001, claimant filed an Application for Post Award Medical pursuant to K.S.A. 44-510k. The Administrative Law Judge set a hearing for December 11, 2001, and claimant sent a Notice of Hearing on the Application for Post Award Medical to the respondent on November 12, 2001.

The hearing was held on December 11, 2001, before the ALJ, but the ALJ characterized the hearing as a preliminary hearing instead of a post award medical hearing. And the claimant's only request was for temporary total disability compensation for five weeks at \$417 per week for the period from October 8, 2001, through November 10, 2001. The ALJ's February 13, 2002, Order, that is the subject of this appeal, also clarified that the order was a preliminary hearing order. Respondent's Request for Review was also identified as brought pursuant to the preliminary hearing statute found at K.S.A. 44-534a(a)(2). Claimant's February 2, 2002, letter brief to the ALJ identified the case as coming before the ALJ for preliminary hearing purposes on December 11, 2001.

The Board, therefore, finds that the ALJ's February 13, 2002, Order is a preliminary hearing order and not a final order in regard to a request for post award medical brought pursuant to K.S.A. 44-510k. Thus, the Board concludes, this is a preliminary hearing Order, and the only issue presented is whether or not claimant is temporarily and totally disabled entitling her to temporary total disability benefits.

The ALJ has the authority at a preliminary hearing to determine whether a claimant is temporary totally disabled and, therefore, entitled to temporary total disability compensation.<sup>1</sup> This is not one of the compensable issues that are listed in K.S.A. 44-534a(a)(2) that gives the Board jurisdiction to review a preliminary hearing order. The Board, therefore, finds, as it has on numerous other occasions, that it does not have jurisdiction, at this juncture of the proceedings, to review the ALJ's preliminary hearing findings in regard to whether claimant is temporarily and totally disabled.

**WHEREFORE**, it is the finding, decision, and order of the Board that it does not have jurisdiction to review ALJ Nelsonna Potts Barnes' February 13, 2002, preliminary hearing Order and respondent's appeal should be, and is hereby, dismissed.

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<sup>1</sup> See K.S.A. 44-534a(a)(2).

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 2002.

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BOARD MEMBER

c: Chris A. Clements, Attorney for Claimant  
Fred L. Haag, Attorney for Respondent  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Workers Compensation Director